

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN

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HOWARD L. ROSS,

Plaintiff,

v.

Case No. 08-C-0230

BOARD OF REGENTS OF THE  
UNIVERSITY OF WISCONSIN SYSTEM

and

RICHARD J. TELFER

JAMES W. FREER

INDRA MOHABIR

MARTHA D. SAUNDERS,

Defendants.

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**AFFIDAVIT OF ANDREW J. PARRISH  
IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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DANE COUNTY                    )  
  )  
STATE OF WISCONSIN        )

Andrew J. Parrish, being duly sworn, states:

1. I am one of the attorneys representing the plaintiff, Dr. Howard L. Ross, in this action and make this affidavit in opposition to defendants' motion for summary judgment.

2. Attached as Exhibit A is a true and correct copy of the Deposition of Howard L. Ross, dated November 6, 2008.

3. Attached as Exhibit B is a true and correct copy of the Deposition of Richard Telfer, dated October 16, 2008.

4. Attached as Exhibit C is a true and correct copy of the Deposition of James W. Freer, dated August 6, 2008.

5. Attached as Exhibit D is a true and correct copy of the Deposition of Martha D. Saunders, dated August 25, 2008.

6. Attached as Exhibit E is a true and correct copy of the Deposition of James, W. Freer, Volume II, dated October 7, 2008.

7. Attached as Exhibit F is a true and correct copy of the Deposition of Randy Marnocha, dated October 15, 2008.

8. Attached as Exhibit G is a true and correct copy of the Deposition of Indra Mohabir, dated August 4, 2008.

9. Attached as Exhibit H is a true and correct copy of the Deposition of Mary A. Pinkerton, dated October 21, 2008.

10. Attached as Exhibit I is a true and correct copy of the curriculum vitae of James W. Freer, entered as Exhibit 12 in the deposition of James W. Freer, dated August 6, 2008, at page 8 of the transcript.

11. Attached as Exhibit J are true and correct documents each entitled "Procard Audit Summary" produced by Defendant Board of Regents of the University of Wisconsin System in response to Request for Production of Documents No. 1 in Plaintiff's First Set of Written Discovery Requests, dated May 22, 2008, requesting "true and complete copies of any an all audit reports, audit summaries, review reports, or any similar document showing the results of a review, audit,

investigation, examination, and/or evaluation of purchase card usage at the University of Wisconsin-Whitewater between 1999 and the present, including any attachments, appendices, or documents incorporated into the reports.” Individual documents also produced in response to Request No. 1 but not cited with respect to the pending motion for summary judgment are omitted due to space considerations.

12. Attached as Exhibit K are copies of emails written between James W. Freer and Michael T. Hirschfield of the University of Wisconsin-Whitewater, described on pages 44–46 of the Deposition of Richard Telfer and produced by counsel for defendants.

13. Attached as Exhibit L is a true and correct copy of a document entitled “Financial Services Correspondence/Memorandum”, dated May 14, 2003, entered as Exhibit No. 89 in the Deposition of James, W. Freer, Volume II, dated October 7, 2008 at pages 143 – 145 of the transcript.

14. Attached as Exhibit M is a true and correct copy of an email exchange between Indra Mohabir and Kathryn Kurowski entered as Exhibit 4 in the Deposition of Indra Mohabir, dated August 4, 2008, at page 71 of the transcript.

15. Attached as Exhibit N is a true and correct copy of a memorandum dated January 16, 2005 entered as exhibit No. 17 in the Deposition of James W. Freer, dated August 6, 2008, at page 124 of the transcript. Freer testified at page 125 that the date on the memorandum was a typo and it should state January 10, 2006.

16. Attached as Exhibit O is a true and correct copy of a memorandum dated February 8, 2005 entered as exhibit No. 18 in the Deposition of James W. Freer,

dated August 6, 2008, at page 155 of the transcript. Freer testified at page 157 that the date on the memorandum was a typo and it should state February 8, 2006.

17. Attached as Exhibit P is a true and correct copy of a memorandum dated February 10, 2005 entered as exhibit No. 19 in the Deposition of James W. Freer, dated August 6, 2008, at page 180 of the transcript. Freer testified at page 180 that the date on the memorandum was a typo and should state February 10, 2006.

18. Attached as Exhibit Q is a true and correct copy of a memorandum dated February 24, 2006 entered as exhibit No. 20 in the Deposition of James W. Freer, dated August 6, 2008, at page 191 of that transcript.

19. Attached as Exhibit R is a true and correct copy of a memorandum dated February 24, 2006 entered as exhibit No. 21 in the Deposition of James W. Freer, dated August 6, 2008, at page 193 of that transcript.

20. Attached as Exhibit S is a true and correct copy of a memorandum dated March 1, 2006 entered as exhibit No. 22 in the Deposition of James W. Freer, dated August 6, 2008, at page 196 of that transcript.

21. Attached as Exhibit T is a true and correct copy of a memorandum dated March 7, 2005, entered as exhibit No. 23 in the Deposition of James W. Freer, dated August 6, 2008, at page 197 of that transcript.

22. Attached as Exhibit U is a true and correct copy of a memorandum dated March 20, 2006 entered as exhibit No. 24 in the Deposition of James W. Freer, dated August 6, 2008, at page 198 of that transcript.

23. Attached as Exhibit V is a true and correct copy of a memorandum dated March 21, 2006 entered as exhibit No. 25 in the Deposition of James W. Freer, dated August 6, 2008, at page 200 of that transcript.

24. Attached as Exhibit W is a true and correct copy of a memorandum dated March 21, 2006 entered as exhibit No. 26 in the Deposition of James W. Freer, dated August 6, 2008, at page 202 of that transcript.

25. Attached as Exhibit X is a true and correct copy of a memorandum dated March 24, 2006 entered as exhibit No. 27 in the Deposition of James W. Freer, dated August 6, 2008, at page 124 of that transcript.

26. Attached as Exhibit Y is a true and correct copy of a memorandum and attached "Dr. Howard Ross P-Card Audit Report April 19, 2006" entered as Exhibit 80 in the Deposition of James, W. Freer, Volume II, dated October 7, 2008, at page 34 of the transcript.

27. Attached as Exhibit Z is a true and correct copy of a letter to Dr. Howard Ross from Randy Marnocha and Dr. Richard Telfer, dated April 6, 2007 with accompanying schedules, entered as Exhibit 115 in the Deposition of Randy Marnocha, dated October 15, 2008, at page 231 of the transcript.

28. Attached as Exhibit AA is a true and correct copy of a document entitled "Cell Phone Audit Report February 2005 FINAL" produced by Defendant Board of Regents of the University of Wisconsin System in response to Document Request No. 22 from Plaintiff's First Set of Written Discovery asking for "a complete copy of any and all cell phone usage reviews, audits, studies, or and/or investigations of any kind performed at UW-Whitewater."

29. Attached as Exhibit BB is a true and correct copy of handwritten notes entered as Exhibit 81 in the Deposition of James, W. Freer, Volume II, dated October 7, 2008, and identified as Richard Telfer's handwriting at page 224 of the Deposition of Richard Telfer, dated October 16, 2008.

30. Attached as Exhibit CC is a true and correct copy of an email from Martha Saunders to James Freer and Richard Telfer, dated April 26, 2006 entered as Exhibit 55 in the deposition of Martha Saunders, dated August 25, 2008, at page 171 of the transcript.

31. Attached as Exhibit DD is a true and correct copy of a memorandum and attached documents entered as Exhibit 88 in the Deposition of James W. Freer, Volume II, dated October 7, 2008, at page 141 of the transcript.

32. Attached as Exhibit EE is a true and correct copy of "schedules" entered as Exhibit 103 in the deposition of Randy Marnocha, dated October 15, 2008, at page 156 of the transcript.

33. Attached as Exhibit FF is a true and correct copy of a document entitled "Administrative Organization" entered as Exhibit 14 in the deposition of James W. Freer, dated August 6, 2008, at page 46 of that transcript.

34. Attached as Exhibit GG is a true and correct copy of pages 250, 251 and 254 from the Deposition of Martha D. Saunders, Volume II, dated November 11, 2008.

35. Attached as Exhibit HH is a true and correct copy of a facsimile cover page and attached report of an audit of Procurement Cards in 1999 entered as Exhibit

13 in the deposition of James W. Freer, dated August 6, 2008, at page 27 of that transcript.

36. Attached as Exhibit II is a true and correct copy of various policies related to university purchasing and procards entered as Exhibit 6 in the Deposition of Indra Mohabir, dated August 4, 2008 at page 116 of the transcript.

37. Attached as Exhibit JJ is a true and correct copy of a document entitled “Enterprise Policy: Cellular Telephone Services and Equipment” issued by the Wisconsin Department of Administration and signed by Marc Marotta, the Secretary of the Department of Administration, entered as Exhibit 75 in the Deposition of James W. Freer, Volume II, dated October 7, 2008, at page 7 of the transcript.

38. Attached as Exhibit KK is a true and correct copy of a document entitled “Enterprise Policy: Cellular Telephone Services and Equipment” purporting to be issued by the Wisconsin Department of Administration on January 18, 2005 and signed on the last page by Marc Marotta, Secretary of the Department of Administration, and entered as Exhibit 76 in the Deposition of James W. Freer, Volume II, dated October 7, 2008, at page 9 of the transcript. The text on the second page of the exhibit under the heading “Use of a Personal Cellular Phone for State Business” is different than the same section shown on the actual state policy at Exhibit JJ.

39. Attached as Exhibit LL is a true and correct copy of Defendant Board of Regents’ Response to Plaintiffs’ First Set of Written Discovery Requests, signed and dated July 7, 2008. Plaintiff’s document request No. 11 had asked for “any and all purchasing card logs maintained in and/or by the College of Letters & Sciences of the

University of Wisconsin-Whitewater from 1999 through 2006.” Defendants’ objected to the request as “overly broad, burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence in this action.”

40. Attached as Exhibit MM is a true and correct copy of a document entitled “Procurement Card Summary” entered as Exhibit 119 in the Deposition of Richard Telfer, dated October 16, 2008, at page 161 of the transcript.

41. Attached as Exhibit NN is a true and correct copy of Defendant Board of Regents’ Response to Plaintiffs’ Second Set of Written Discovery Requests Saunders procard, signed and dated December 15, 2008. Plaintiff document request No. 9 had asked for “any and all purchasing card logs from 1999-2006 maintained by or on behalf of Dr. Ross when he was Dean of the University of Wisconsin-Whitewater College of Letters and Sciences.” Defendant responded that “UWW has provided all documents in its possession. When the department moved from Salisbury Hall, all old ledgers and records were sent to archives. Mary Pinkerton searched the archives for logs labeled L&S and found no financial records. She was told that WISDM was considered the official financial record and that the other documents had been shredded.”

42. Attached as Exhibit OO is a true and correct copy of documents produced by defendants which they entitled “Martha Saunders – Travel” which includes various documents such as receipts and Purchasing Card Records.

43. Attached as Exhibit PP is a true and correct copy of the University of Wisconsin System Fiscal and Accounting General Records Schedule effective



February 2007, publicly available by internet on the University of Wisconsin System website at <http://www.uwsa.edu/fadmin/records.htm>.

44. Attached as Exhibit QQ is a true and correct copy of the Deposition of Indra Mohabir, dated October 8, 2008.

45. Attached as Exhibit RR is a true and correct copy of an email exchange between Martha Saunders and Mary Pinkerton entered as Exhibit 49 in the Deposition of Martha Saunders, dated August 25, 2008, at page 147 of the transcript.

46. Attached as Exhibit SS is a true and correct copy of a memorandum from Howard Ross to the Chancellor entered as Exhibit 71 in the deposition of Martha Saunders, at page 237 of the transcript.

47. Defendants have not designated any individuals submitting affidavits in support of their motion for summary judgment as experts in this case, including Ms. Jane Radue. Plaintiff designated James Marasco, whose affidavit is being filed herewith, as an expert in accordance with the Court's scheduling order.

48. Attached as Ex. TT is a true and correct copy of an email referenced and described by Richard Telfer in his October 16, 2008 deposition at pages 44-45. This email was subsequently forwarded to my office by defense counsel on October 23, 2008. The underlying email purports to be an exchange between James Freer, Randy Marnocha, and Michael Hirschfield on August 5, 2008.

49. Attached as Exhibit UU are true and correct pages from a very large document entered as Exhibit 12 in the August 4, 2008 deposition of Indra Mohabir, at page 178 of the transcript, bearing Bates' stamp UW011362-UW011424.

Dated: 19th March, 2009.

s/ Andrew J. Parrish  
Andrew J. Parrish

Signed and sworn to before me  
on March 19, 2009  
by **Andrew J. Parrish.**

s/ Sharon L. Sumner  
Sharon L. Sumner  
Notary Public  
My commission is permanent.